



UNITED STATES MARINE CORPS

MARINE CORPS AIR STATION
BEAUFORT, SOUTH CAROLINA 29904

IN REPLY REFER TO:

ASO 5800.15A

SJA

19 AUG 2013

AIR STATION ORDER 5800.15A

From: Commanding Officer, Marine Corps Air Station Beaufort
To: Distribution List

Subj: VICTIM-WITNESS ASSISTANCE PROGRAM (VWAP)

Ref: (a) SECNAVINST 5800.11B
(b) DOD Directive 1030.01
(c) MCO 5800.14
(d) DOD Instruction 1030.2
(e) UCMJ (10 U.S.C. Chap 47)
(f) SECNAVINST 1752.4A
(g) MCO 1752.5a
(h) MCO 1754.11

1. Purpose. This order is a complete revision of ASO 5800.15 and should be read in its entirety. This order revises the previous order which served to implement the Victim and Witness Assistance Program (VWAP) established by references (a) and (b), and to define the policies, responsibilities, and procedures for Marine Corps Air Station Beaufort, South Carolina (hereinafter MCAS BFT) in compliance with references (a), (b), (c), and (d).

2. Cancellation. ASO 5800.15

3. Definitions. Expanded definitions of "victim" and "witness" as used in this Order are provided in reference (c). Paragraph 5 explains the terms generally.

4. Background.

a. The military justice system operates to ensure good order and discipline is maintained within the Marine Corps. Without the cooperation of victims and witnesses, the military justice system would cease to function. Between 1982 and 2004, the U.S. Congress enacted a series of laws designed to provide information to crime victims and witnesses regarding their rights and position in the criminal justice system. References (b) and (d) made these laws applicable to the Marine Corps and

19 AUG 2012

also imposed a duty upon departments and agencies of the United States engaged in law enforcement and criminal justice functions to ensure that crime victims are provided specific rights and services.

b. Victims and witnesses of crime normally suffer some adverse impact from the crime. The VWAP is designed to minimize the effects of crime, and to help victims and witnesses understand and meaningfully participate in the military justice system. The VWAP ensures that Marine Corps personnel are trained to provide appropriate information, referrals, and services. The VWAP uses a multi-disciplinary approach to assist victims and witnesses. This approach combines the services of law enforcement, family advocacy, medical, legal, and corrections personnel. The VWAP reflects the Marine Corps' ongoing commitment to ensuring that victims and witnesses are treated with respect and dignity, informed of their rights, and provided with necessary information and services to assist in their recovery.

5. Applicability. The provisions of this order apply to all MCAS BFT personnel (Marine Corps and Navy) engaged in detecting, investigating, or prosecuting crime, and to personnel assisting crime victims and witnesses. This order pertains to victims and witnesses of offenses committed in violation of reference (e) and to witnesses involved in proceedings conducted under the Manual for Courts-Martial (MCM), 2012. This order is not limited to criminal offenses prosecuted at courts-martial. Crime victims and witnesses do not forfeit their status when offenses are referred to non-judicial punishment or administrative separation proceedings. This order is limited to victims and witnesses who are military members, their families, and authorized representatives of institutional entities that are victims of crime (i.e. Federal departments and State and local agencies, as entities, are not eligible for services available to individual victims).

a. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term "victim" includes one of the following (in order of precedence): a spouse, legal guardian, parent, child, sibling, another family member, or another person designated by a court.

6. Policy. Marines, Sailors, and civilians serving with the Marine Corps shall treat all victims and witnesses of crime with dignity and respect. Throughout and following the adjudication or other disposition of alleged offenses, all victims shall be

19 AUG 2013

treated as victims. The treatment of victims is independent of the results obtained by the military or criminal justice system or during the administrative process.

a. A crime victim has the following rights:

(1) To be treated with fairness and with respect for the victim's dignity and privacy.

(2) To be reasonably protected from the accused.

(3) To be notified of any decision to dispose of an alleged offense at court-martial, NJP, or ADSEP proceeding.

(4) To be present at all public court proceedings, NJP, and ADSEP proceedings related to the offense, unless the court or legal advisor, after receiving clear and convincing evidence, determines that testimony by the victim would be materially affected if the victim heard other testimony at trial. This right does not obligate the government to pay for expenses incurred by the victim to be present.

(5) To be reasonably heard at any public proceeding involving release, plea, sentencing, or parole of the accused. This right does not obligate the government to pay for the expenses incurred by the victim to be present.

(6) To confer with the attorney for the government.

(7) To receive available restitution.

(8) To receive information about the conviction, sentence, confinement, and release of the accused.

(9) To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, any escape of the accused, and the time and location of any trial, NJP, or ADSEP proceeding (including entry of guilty pleas and sentencing).

(10) To proceedings free from unreasonable delay.

b. A Witness has the following rights:

(1) To be treated with fairness and with respect for the witness' dignity and privacy.

(2) To be reasonably protected from the accused.

13 AUG 2018

(3) To be notified of any decision to dispose of an alleged offense at court-martial, NJP or ADSEP proceeding.

(4) To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, any escape of the accused, and the time and location of any trial, NJP, or ADSEP proceeding (including entry of guilty pleas and sentencing).

(5) To be provided information about the resolution of the case to include ADSEP decisions, any punishment awarded to the offender, sentencing, imprisonment, and release of the offender, if confined.

c. Humanitarian and practical concerns demand that Marine Corps authorities responsible for effective functioning of the criminal justice system consider the needs of victims and witnesses participating in command investigations or disciplinary proceedings. Responsible authorities must mitigate, within the means of available resources and in accordance with applicable law, the physical, psychological, and financial hardships suffered by crime victims and witnesses and make all reasonable efforts to foster their cooperation in the criminal justice process.

d. Victims and witnesses of domestic abuse or sexual assault often require assistance beyond the information and referrals required under the VWAP. References (f), (g), and (h) provide additional guidance and specific programs for victims and witnesses of those crimes.

e. While special attention must be provided to victims and witnesses of serious, violent crime, all crime victims and witnesses shall receive the assistance provided for in this Order. In cases where the United States or the public is the victim, victim assistance will normally be unnecessary; however, there may be witnesses in those cases who will be entitled to witness services.

f. This Order is not intended to, and does not, create any entitlement, cause of action, or defense in favor of any person arising out of the failure to provide the assistance outlined in this order. No limitations are placed on the lawful prerogatives of the Department of the Navy, the Marine Corps or their officials.

19 AUG 2018

7. Program Overview. VWAP is a multidisciplinary model designed to identify and assist crime victims and witnesses through the criminal justice process beginning with the initial report of a crime and continuing through the investigation, prosecution, sentencing, confinement, and release of an offender.

a. The Commanding Officer (CO), MCAS BFT, is responsible for implementing VWAP. The appointed Victim Witness Liaison Officer (VWLO) will manage the VWAP on behalf of the Commanding Officer.

b. Unit commanders, commanding officers, and officers in charge (OICs) are responsible for ensuring that victims and witnesses in their commands are afforded their rights and are informed of the status of a criminal case through final disposition, especially cases investigated and resolved within the command.

c. All disciplines (including law enforcement, security, criminal investigations, convening authorities, legal, and corrections) are responsible for ensuring a smooth transition of victim and witness assistance through the stages of the criminal justice system.

d. Service providers (e.g., Marine and Family Programs (MF) personnel, family advocacy counselors, victim advocates, health care personnel, chaplains, and legal assistance attorneys) are responsible for providing available services to victims and, when appropriate, shall provide referrals to any available community-based services.

8. Responsibilities.

a. The MCAS BFT CO, is the Local Responsible Official pursuant to references (a), (b), and (c) for MCAS BFT. The VWLO is the principal agent responsible for implementing and maintaining VWAP on behalf of the MCAS BFT CO. The VWLO shall:

(1) Be appointed in writing by name, title, duty address, and telephone number. The VWLO shall be an officer or civilian employee on the MCAS BFT CO's staff and shall not serve as a trial counsel, senior trial counsel, regional trial counsel, defense counsel, senior defense counsel, regional defense counsel, staff judge advocate, or legal assistance attorney. The VWLO shall be of appropriate experience, temperament, and

19 AUG 2013

rank. There is no requirement that the VWLO be a Judge Advocate.

(2) Ensure close coordination between local Victim Witness Assistance Coordinators (VWACs) and law enforcement, Legal Services Support Team (LSST) Parris Island, commanding officers, medical facilities, Marine and Family Programs, corrections facilities, and chaplains.

(3) Ensure all VWAP representatives aboard the installation are provided the VWLO's name and phone number.

(4) Establish a local Victim and Witness Assistance Council, chaired by the VWLO, to coordinate a comprehensive assistance program and comply with VWAP notification and reporting requirements. The council should consist of the VWLO, tenant VWACs, and representatives from Sexual Assault Prevention and Response (SAPR), Naval Criminal Investigative Service (NCIS), Criminal Investigation Division (CID), Provost Marshal Office (PMO), Staff Judge Advocate (SJA) office, LSST-PI, chaplain, and MF. The council does not discuss specific cases, victims, or witnesses, but focuses on victim and witness services and the manner in which those services are being provided locally. The council provides the VWLO, and ultimately the MCAS BFT CO, with information regarding the availability, use, and capability of victim and witness services aboard MCAS.

(5) Ensure processes are in place to maintain and collect data concerning the number of victims and witnesses who received DD Forms 2701-2704.

(6) Construct and maintain, with the assistance of the MF office, a directory of programs, services, and crime victim compensation funds available, both military and civilian, to which a victim or witness may be referred. This directory is to be published on the MCAS BFT website. When appropriate, and after consultation with the SJA, enter in to a Memoranda of Agreement with other service or civilian agencies to ensure victims and witnesses are provided required services.

(7) Ensure that victims and witnesses are receiving the information and services as required under VWAP until an accused enters post-trial confinement.

(8) Ensure compliance with this order by MCAS BFT and the tenant commands.

19 AUG 2013

(9) Maintain a list of VWACs and service providers aboard MCAS BFT. Ensure copies of this list are provided to all VWACs and service providers.

(10) In conjunction with the MF office and SAPR, maintain a MCAS BFT website that includes, at a minimum, a current directory of MCAS BFT VWAP personnel, military and civilian programs and services providing counseling, treatment, or other victim support services within the geographic area of MCAS BFT, and contact information for these programs.

(11) Obtain and distribute relevant information and provide annual training to all VWACs aboard MCAS BFT.

(12) In coordination with command VWACs, PMO, NCIS, trial counsel, legal assistance, SJA, SAPR, medical, and MF, ensure victims and witnesses are notified of their rights.

(13) In coordination with PMO and NCIS, ensure victims are provided the names, titles, duties, addresses, and telephone numbers of the appropriate VWAC involved in their case.

(14) Provide the Regional VWLO (RVWLO) at Camp Lejeune with a quarterly report of the number of victims and the number of witnesses who were notified of their rights with DD Forms 2701-2703 and which victims and witnesses elected notification via DD Form 2704.

(15) Ensure that CMC (JA-2) and the RVWLO are notified when a new VWLO is appointed.

(16) Assist victims in exercising their rights and obtaining support, when appropriate.

b. Unit Commanders, Commanding Officers, and Officers in Charge are responsible for understanding and aggressively supporting VWAP and ensuring compliance with this order and reference (c). Every commander (squadron level and above) shall appoint, in writing, a VWAC. The appointment letter shall include the VWAC's name, title, duty address, and duty telephone number. The original VWAC appointing letter shall be maintained by the VWLO. The VWAC may be an officer, SNCO, or civilian employee on the commander's staff. The VWAC should not serve as a Uniformed Victim Advocate (UVA).

19 AUG 2013

(1) Commanders shall ensure that VWACs are immediately notified when a member of the unit is a victim or witness as defined in reference (c).

(2) In cases of summary courts-martial where confinement is adjudged and approved, commanders or their VWACs shall coordinate with a trial counsel assigned to LSST-PI or the VWLO prior to completing the DD Form 2704.

(3) Commanders shall make every appropriate effort to protect victims of violence or abuse from further harm. When necessary commanders shall request a brief on the threat assessment conducted by either law enforcement or investigative personnel in order to create a reasonable plan to ensure the safety of victims and witnesses. The cognizant VWAC should attend this brief. Commanders shall ensure victims and witnesses are made aware of the resources that may be available to promote their safety, including military protective orders (MPO). In situations where one party to the MPO resides off-base, the commander shall ensure PMO is provided with a copy of the MPO and that PMO is notified once it is rescinded.

(4) Commanders shall provide annual VWAP training to unit personnel to ensure that unit personnel know the identity of the VWAC and understand victim and witness rights.

(5) Convening Authorities shall consider victim statements on the impact of the crime when considering pretrial agreements, clemency, or sentence reduction.

c. The Unit VWAC shall be an officer, SNCO, or civilian member of the commander's staff of appropriate experience, temperament, and rank.

(1) In cases involving victims, witnesses, or accused from different commands, the VWACs for these commands may have overlapping duties and responsibilities. VWACs must ensure close coordination with VWAP personnel as set forth in this order, to include other VWACs, law enforcement, and trial counsel as appropriate.

(2) Ensure victims and witnesses understand the rights afforded them under the law and this order and are provided with a completed Initial Information for Victims and Witnesses of Crime (DD Form 2701) if one has not already been provided.

18 AUG 2018

(3) Ensure processes are in place to maintain data on the number of victims and witnesses who receive DD Forms 2701.

(4) Ensure the total number of victims and witnesses provided DD Form 2701 is reported to the VWLO quarterly.

(5) When the Victim or Witness is a Member of the VWAC's command

(a) Once the command is aware that a member of their command is a victim or witness, the VWAC shall ensure that the victim or witness is advised of applicable rights and provided DD Form 2701, if one has not already been provided.

(b) Coordinate with MF to ensure the victim or witness receives, when appropriate, information concerning the availability of resources, including information on compensation programs available to victims of intra-familial abuse offenses when the offender is a service member.

(c) Assist the victim and/or witness in obtaining necessary counseling.

(d) Maintain contact with all VWACs and VWAP personnel involved in the victim's or witness' case.

(e) Assist the victim or witness, as appropriate and necessary, in the exercise of their rights. For cases pending judicial action, the trial counsel will provide notifications, assistance, and explanation of rights (as contained in DD Forms 2702 and 2703).

(6) Where the VWAC's command is the convening authority

(a) Once the command is aware that an accused is a member of the command, the VWAC shall identify the victim and, if applicable, witnesses. For victims and witnesses from another command, the VWAC will notify the appropriate command's VWAC. For victims or witnesses from the accused's command, the VWAC will provide the necessary assistance as outlined above.

(b) After charges have been preferred, the VWAC shall ensure that victims and witnesses have been provided the necessary notifications under VWAP. The VWAC must coordinate with PMO, the trial counsel, and VWACs of the victims' or witnesses' command to ensure these notifications are made and understood by the victims and/or witnesses.

19 AUG 2013

(c) The VWAC shall confirm that the trial counsel detailed to the case has obtained the victim's views, if any, concerning pretrial plea negotiations and has forwarded that information to the convening authority. Additionally, the VWAC shall verify that the trial counsel has notified the victim of the nature of the charges, date of preferral, and the commander's decisions concerning prosecution.

(d) Confirm that the trial counsel has complied with the victim's request to be notified of the following, when applicable:

(1) The date charges are referred and the nature of the charges.

(2) Acceptance of a pretrial agreement.

(3) The court-martial findings concerning guilt.

(4) The sentence adjudged.

(5) The convening authority's action (CAA) on the findings and sentence of the court-martial.

(e) In the event a case is not referred to a court-martial, a VWAC may perform the above notifications and confer with victims; however, the VWAC should consult with trial counsel prior to doing so.

(7) In pretrial confinement cases where the victim or witness has requested notification, the VWAC shall notify the victim or witness of changes in the accused's pretrial confinement status.

(8) The VWAC shall obtain and distribute VWAP materials and provide VWAP training to the members of the command on an annual basis.

(9) Generally the VWAC should not serve as a victim advocate due to potentially conflicting roles, responsibilities, and duties to the victim and command.

(10) Unit VWACs have separate roles and responsibilities from VWACs assigned to support organizations (i.e. confinement facility, LSST, PMO, MF).

d. Staff Judge Advocate (SJA)

19 AUG 2013

(1) Provide advice and guidance to convening authorities and commanders with regard to VWAP.

(2) Provide a copy of the CAA to the trial counsel in those cases where a victim or a witness has elected to be informed of the CAA.

(3) Provide a separate waiting area for the following: victims, victim witness support personnel, and government witnesses during courts-martial and administrative hearings. The waiting area shall be separate from, and out of the sight and hearing of, the accused or respondent, and defense or respondent witnesses.

e. Provost Marshal

(1) Shall appoint a law enforcement VWAC. The law enforcement VWAC shall:

(a) Sit on the Victim and Witness Assistance Council.

(b) Ensure DD Form 2701s are provided to victims and witnesses and contain accurate contact information.

(c) Accurately track the number of victims and witnesses provided with DD Form 2701 and report the data to the VWLO quarterly.

(d) Conduct annual training of law enforcement personnel on the requirements of the VWAP and applicable orders regarding the treatment of victims and witnesses.

(2) All investigative and law enforcement personnel must understand the VWAP and provide crime victims and witnesses the information described in this order. Law enforcement personnel shall identify victims and witnesses of crime, treat them with fairness, and respect their dignity and privacy.

(3) Threat Assessment. All investigative and law enforcement personnel have a continuing duty to take reasonable measures to protect victims and witnesses from further threat, harm, and intimidation. To that end, investigative and law enforcement personnel shall immediately assess the situation and take action to minimize the threat to the victim or witness. Investigative and law enforcement personnel shall exercise case when discussing available protective measures to avoid creating

19 AUG 2018

unrealistic expectation concerning the level of protection measures available.

(4) The individual in charge of a criminal investigation will ensure that victims and witnesses understand their rights under the law and this order and receive a completed DD Form 2701. The form shall include the name and telephone number of the investigator, VWLO, and the cognizant command VWAC, and when appropriate, a number to contact a victim advocate. The home address and telephone number of victims and witnesses will not be included in investigative reports unless they are specifically pertinent (e.g. crime scene at the victim's home).

(5) All investigative and law enforcement personnel shall assist victims and witnesses, upon request, in contacting persons responsible for providing the services and relief described in DD Form 2701. The VWLO is responsible for maintaining a directory of service and relief providers and unit VWACs. Investigative and law enforcement personnel shall familiarize themselves with this directory and supply victims and witnesses with appropriate phone numbers and addresses.

(6) If requested by the victim, the individual in charge of a criminal investigation will keep the victim apprised of the status of the investigation/inquiry, to the extent it will not interfere with the investigation.

(7) If requested by the victim, the individual in charge of a criminal investigation shall promptly notify victims and witnesses when a suspect is apprehended.

(8) Investigative and law enforcement personnel shall safeguard victims' and witnesses' property held as evidence and shall assist in returning it as soon as possible.

(9) Investigative and law enforcement personnel shall ensure accurate record keeping of the total number of victims and witnesses provided with DD Form 2701.

(10) Notification to the Command VWAC. To ensure command VWACs are notified of criminal investigations requiring action under this chapter, the following notifications shall be made, as applicable:

(a) If both the accused and victim are military members, the individual in charge of a criminal investigation will provide the identity of the victim to the VWAC of the

19 AUG 2018

accused's command, the VWAC of the victim's command, and the installation VWLO.

(b) If only the accused is a military member, the individual in charge of a criminal investigation will provide the identity of the victim to the VWAC of the accused's command and the installation VWLO.

(c) If only the victim is a military member, in those instances where MCAS law enforcement is involved in the investigation, the individual in charge of the criminal investigation will provide the identity of the victim to the VWAC of the victim's command and the VWLO. In those instances where the investigative agency is non-DOD then the PMO VWAC will liaise with the non-DOD agency in an effort to obtain the identity of the victim and, if identified, will provide that information to the cognizant VWAC and VWLO.

e. Service Provider Roles and Responsibilities

(1) Marine and Family Programs (MF)

(a) Inform crime victims and witnesses about VWAP rights, services, and assistance when they receive counseling, treatment, or advice, if such information has not already been provided.

(b) Ensure that victims and witnesses in a case understand the rights afforded them under the law and this order, and are provided with a completed DD Form 2701 if one has not already been provided.

(c) Ensure processes are in place to maintain data on the number of victims and witnesses who receive DD Form 2701.

(d) Ensure the total number of victims and witnesses provided DD Form 2701 is reported to the VWLO quarterly.

(e) Inform victims of spousal or intra-familial abuse of the benefits provided under Transitional Compensation for Abused Family Members. Assist with completing DD Form 2698 "Application for Transitional Compensation."

(f) Encourage victims of spousal or intra-familial abuse to contact the local legal assistance office for additional information on their rights and benefits they may be entitled to receive. All efforts should be made to execute a

19 AUG 2013

"warm handoff" to the legal assistance providers by ensuring a legal assistance attorney is prepared to assist the victim.

(g) As appropriate, inform crime victims of state crime compensation funds that may be available to reimburse victims for certain expenses incurred as a result of the crime.

(h) Know the VWAP points of contact at MCAS BFT.

(i) Appoint, by name and in writing, a representative to the local Victim and Witness Assistance Council.

9. Reporting.

a. References (a), (c), and (d) require an annual report to the Under Secretary of Defense for Personnel and Readiness, via the Assistant Secretary of the Navy (M&RA), concerning the assistance provided to victims and witnesses of crime. The Marine Corps Installations East CG is required to report the total number of victims and witnesses who have received DD Form 2701-2703 and the total number of victims and witnesses who elected via DD Form 2704 to be notified of changes in prisoner status. Reports are due to CMC (JA-2) on the 20th day of the month following the end of the quarter (i.e. 20 April, 20 July, 20 September, and 20 January) with the data for the previous quarter.

(1) Law Enforcement: Maintain data on the number of victims and witnesses provided DD 2701 and forward to the VWLO to ensure quarterly reports are submitted in a timely manner.

(2) Victim Service Providers (e.g. SAPR, MF, VWAC, etc.): Maintain data, as appropriate, and forward to the VWLO in a timely manner to ensure quarterly reports are submitted in accordance with this order.

(3) VWLO: provide quarterly reports to the RVWLO.

10. Certification. Reviewed and approved this date.


B. C. MURTHA

DISTRIBUTION: MCAS BFT